



Bob Riley  
Governor

# STATE OF ALABAMA

## Alabama Board of Court Reporting

2011 Berry Chase Place (36117)  
Post Office Box 240187  
Montgomery, Alabama 36124  
Telephone (334) 215-7233  
Fax (334) 215-7231  
[www.abcr.alabama.gov](http://www.abcr.alabama.gov)

### **“What This Bill Does”**

#### **HB 806 – Sunset Bill for The Alabama Board of Court Reporting Sponsor: Rep. Jim McClendon**

HB 806 is the Sunset Bill for the Alabama Board of Court Reporting and companion bill to SB 564. This Bill would continue the Board for two years with changes. THIS BILL MUST PASS THIS SESSION OR THE BOARD WILL CEASE TO EXIST (After 20 years of The Alabama Court Reporter Association’s Lobbying to create ABCR). The following amendments have been added to this Bill:

1. Requirements for Board Membership - This Bill would lower the standard for Board Membership by eliminating the requirement to pass the national licensure examination for court reporter members of the Board.
2. Update Language - Replace the language, “Alabama Judicial Conference” with “Administrative Office of Courts” since the Alabama Judicial Conference no longer exists. This organization is responsible for making nominations for the Judicial Member seat of the Board. (This language was presented by the Alabama Sunset Review Committee since it is simply a cosmetic change and this would correct an audit finding of the Examiners of Public Accounts.)
3. Continuing Education - Would allow for continuing education courses to be provided by the Alabama State Bar. Although ABCR already has a history of approving continuing education credit provided by the Alabama State Bar, this would simply provide for it in statute.
4. Contracting - Would provide that financially interested parties or preferred vendor arrangements not be admitted in Alabama courts.
5. Board Liability - Would provide for the Board to sue and be sued as the result of disciplinary action taken against any licensee or any person who violates the statute. We anticipate that this language will correct a finding of the Examiners of Public Accounts.
6. Temporary Licensure - Provide for an 18 month temporary licensure to practice court reporting to individuals who have graduated from a court reporting school. Further, the Board would not be held liable for loss of income to the temporary licensee or court reporting firm should the individual not pass the examination after the temporary license has expired.

1 HB806  
2 121203-1  
3 By Representative McClendon  
4 RFD: Boards and Commissions  
5 First Read: 01-APR-10

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SYNOPSIS: Under existing law, termination dates are established for enumerated state agencies. The agencies are periodically reviewed by the Alabama Sunset Committee. After the review process is completed, the committee prepares its recommendations for the agencies to the Legislature in the form of sunset bills which either continue, terminate, or continue with modification each agency reviewed.

This bill would provide for the continuance of the Alabama Board of Court Reporting until October 1, 2012, with the following changes: To delete reference to the Alabama Judicial Conference, to provide for the appointment of a board member by the Chief Justice from a list of nominees provided by the Administrative Office of Courts, to allow court reporters to use approved continuing legal education courses for continuing education, to limit the admissibility of depositions, to limit the liability of the board,

1           and to provide for a temporary graduate license for  
2           graduates of court reporting schools.

3  
4                           A BILL

5                           TO BE ENTITLED

6                           AN ACT

7  
8           Relating to the Alabama Sunset Law; to continue the  
9           existence and functioning of the Alabama Board of Court  
10          Reporting until October 1, 2012, with certain modifications;  
11          to amend Sections 34-8B-4, 34-8B-5, 34-8B-8, 34-8B-9, and  
12          34-8B-15, Code of Alabama 1975, so as to delete reference to  
13          the Alabama Judicial Conference; to provide for the  
14          appointment of a board member by the Chief Justice from a list  
15          of nominees provided by the Administrative Office of Courts;  
16          to allow court reporters to use approved continuing legal  
17          education courses for continuing education; to limit the  
18          admissibility of depositions; to limit the liability of the  
19          board; and to provide for a temporary graduate license for  
20          graduates of court reporting schools.

21          BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22                        Section 1. Pursuant to the Alabama Sunset Law, the  
23          Sunset Committee recommends the continuance of the Alabama  
24          Board of Court Reporting until October 1, 2012, with the  
25          additional recommendations for statutory change as set out in  
26          Section 3.

1           Section 2. The existence and functioning of the  
2 Alabama Board of Court Reporting, created and functioning  
3 pursuant to Sections 34-8B-1 to 34-8B-18, inclusive, Code of  
4 Alabama 1975, is continued until October 1, 2012, is  
5 continued, and those code sections are expressly preserved.

6           Section 3. Sections 34-8B-4, 34-8B-5, 34-8B-8,  
7 34-8B-9, and 34-8B-15 of the Code of Alabama 1975, are amended  
8 to read as follows:

9           "§34-8B-4.

10           "(a) There is created the Alabama Board of Court  
11 Reporting. The board shall be operative within 60 days of June  
12 1, 2006. ACRA shall provide administrative support to the  
13 board until such time as the board employs sufficient  
14 employees to implement and administer this chapter.

15           "(b) The board shall consist of seven members as  
16 follows:

17           "(1) Four court reporters certified ~~at a~~  
18 ~~professional level~~ by ABCR, NCRA, or NVRA, or by the board, two  
19 of whom shall be employed in official capacities and two of  
20 whom shall be employed in a freelance setting.

21           "(2) Two members in good standing with the Alabama  
22 State Bar Association.

23           "(3) One additional member ~~in good standing with the~~  
24 ~~Alabama Judicial Conference~~.

25           "(c) Appointments to the board shall be made as  
26 follows:

1           "(1) The Governor shall appoint one official court  
2 reporter, one freelance court reporter, and one member of the  
3 Alabama State Bar Association. ACRA, NCRA, NVRA, and the  
4 Alabama State Bar Association shall respectively submit a list  
5 of three names for each appointment to the Governor for  
6 consideration.

7           "(2) The Lieutenant Governor shall appoint one  
8 member of the Alabama State Bar Association from a list of  
9 three names submitted by the Alabama State Bar Association.

10           "(3) The President Pro Tempore of the Senate shall  
11 appoint one member who is an official court reporter from a  
12 list of three names submitted by ACRA.

13           "(4) The Speaker of the House of Representatives  
14 shall appoint one member who is a freelance court reporter  
15 from a list of three names submitted by ACRA.

16           "(5) The Chief Justice of the Alabama Supreme Court  
17 shall appoint one member ~~who is a member of the Alabama~~  
18 ~~Judicial Conference~~ from a list of three names submitted by  
19 the ~~Alabama Judicial Conference~~ Administrative Office of  
20 Courts.

21           "(d) All members of the board shall be citizens of  
22 the United States and the State of Alabama. The lists of names  
23 shall be submitted by the designated organizations on or  
24 before June 1, 2006. The initial terms shall begin January 1,  
25 2007, and all appointments shall be made prior to January 1 of  
26 every year.

1           "(e) The initial members shall serve the following  
2 terms as designated by the Governor:

3           "(1) Three members shall serve for two years.

4           "(2) Two members shall serve for three years.

5           "(3) Two members shall serve for four years.

6           "(f) Subsequent terms of office shall be for four  
7 years. No member shall serve more than two consecutive terms.  
8 In the event of a vacancy, the appointing authority for the  
9 position shall fill the vacancy. Each member shall serve until  
10 his or her successor is duly appointed and qualified.

11           "(g) The membership of the board shall be inclusive  
12 and reflect the racial, gender, geographic, urban/rural, and  
13 economic diversity of the state. The board shall annually  
14 report to the Legislature by the second legislative day of  
15 each regular session to what extent the board has complied  
16 with the diversity provisions provided for in this subsection.

17           "(h) At its first meeting each calendar year, the  
18 board shall elect a chair, vice chair, and secretary from its  
19 membership. No member shall be elected to serve more than two  
20 consecutive years in the same office.

21           "(i) After the initial appointments have been made,  
22 the board shall meet by January 2007, for the purpose of  
23 organizing and transacting business. Thereafter, the board  
24 shall meet not less than twice annually and as frequently as  
25 deemed necessary by the chair or a majority of the members.  
26 The board shall meet at such time and place as designated by  
27 the board. A quorum shall consist of four members.

1           "(j) Board members shall receive the same travel  
2 expenses and per diem as state employees pursuant to Article  
3 2, commencing with Section 36-7-20, Chapter 7, Title 36. The  
4 compensation and expenses shall be paid out of the funds of  
5 the board. Reimbursement shall not be made if funds are  
6 insufficient.

7           "§34-8B-5.

8           "The board shall have all of the following duties  
9 and responsibilities:

10           "(1) Act on matters concerning competency licensure  
11 only and the process of granting, suspending, reinstating, and  
12 revoking a license.

13           "(2) Establish a procedure for the investigation of  
14 complaints against licensed court reporters and for the  
15 conduct of hearings in which complaints are heard.

16           "(3) Set a fee schedule for granting licenses and  
17 renewals of licenses subject to the Alabama Administrative  
18 Procedure Act.

19           "(4) Maintain a current register of licensed court  
20 reporters and a current register of temporarily licensed court  
21 reporters. Registers shall be matters of public record.

22           "(5) Maintain a complete record of all proceedings  
23 of the board.

24           "(6) Submit an annual report detailing the  
25 proceedings of the board to the Governor for the previous  
26 fiscal year and file a copy of the report with the Secretary  
27 of State.

1           "(7) Adopt continuing education requirements no  
2 later than October 1, 2007. Requirements shall be implemented  
3 no later than January 1, 2008, and shall include all courses  
4 approved by the Alabama State Bar for continuing legal  
5 education.

6           "(8) Determine the content of and administer  
7 examinations to be given to applicants for licensure as  
8 certified court reporters and issue numbered licenses to  
9 applicants found qualified.

10           "(9) Maintain records of its proceedings and a  
11 register of all persons licensed by the board which shall be a  
12 public record and open to inspection.

13           "§34-8B-8.

14           "(a) After January 1, 2007, any person who  
15 undertakes or attempts to undertake the practice of court  
16 reporting for remuneration without first having procured a  
17 license, or who knowingly presents or files false information  
18 with the board for the purpose of obtaining a license or who  
19 violates this chapter shall be guilty of a Class C  
20 misdemeanor. A person who is not licensed may not bring or  
21 maintain an action to recover fees for court reporting  
22 services that he or she performed in violation of this  
23 chapter. Whenever it appears to the board that any court  
24 reporter has violated this chapter, the board may, in its own  
25 name, petition the circuit court of the county in which the  
26 violation occurred to enjoin the violation.

1           "(b) No deposition taken by a court reporter who is  
2           a financially interested party or taken under a preferred  
3           vendor arrangement with a court reporting entity, unless  
4           prepared by or for a governmental agency, may be admitted in  
5           an Alabama court, except that the deposition may be admitted  
6           by the party not having the financial interest or preferred  
7           vendor arrangement with the court reporter if otherwise  
8           admissible under the rules of evidence.

9           "§34-8B-9.

10           "(a) The board may sue and be sued in its own name  
11           to recover actual or compensatory damages, including interest  
12           and court costs, sustained as the result of ~~the conduct of~~  
13           disciplinary action taken against any licensee or any other  
14           person who violates this chapter or rules promulgated  
15           hereunder.

16           "(b) All members of the board shall be immune from  
17           civil liability while acting within the scope of their duties  
18           as board members.

19           "§34-8B-15.

20           "(a) Any person who has engaged in the practice of  
21           court reporting in the State of Alabama for less than one year  
22           on June 1, 2006, and who provides to the board satisfactory  
23           proof of graduation from an accredited high school or its  
24           equivalent and the affidavits of three licensed attorneys,  
25           unrelated to the person by blood or marriage, who have  
26           utilized his or her services, and who attest to the person's  
27           proficiency in court reporting, shall, upon application to the

1 board on forms approved by the board and payment of a fee in  
2 an amount determined by the board, be issued a temporary  
3 license to practice as a court reporter. This temporary  
4 license shall expire on the 60th day following the date upon  
5 which the next board-approved examination for licensure is  
6 given. No more than two additional temporary licenses shall be  
7 issued to any applicant who fails to pass the scheduled  
8 examination for licensure.

9 "(b) Commencing on the effective date of the act  
10 adding this subsection, any person who is a graduate of a  
11 school of court reporting may receive a temporary license to  
12 practice as a court reporter from the board. Application for  
13 the temporary graduate license shall be made to the board, on  
14 forms approved by the board, and the payment of a fee in an  
15 amount determined by the board. The license shall be valid on  
16 the date of graduation and shall expire 18 months after  
17 issuance.

18 "(c) In the event that a temporary license expires  
19 without the temporary licensee having passed the examination  
20 for full licensure, court reporting services by the temporary  
21 licensee shall cease and desist immediately upon the  
22 expiration of the temporary license, and the board may not be  
23 held liable for lost income to the temporary licensee or to  
24 the court reporting firm."

25 Section 4. The Legislature concurs in the  
26 recommendations of the Sunset Committee as provided in  
27 Sections 1, 2, and 3.

1                   Section 5. This act shall become effective  
2 immediately upon its passage and approval by the Governor, or  
3 its otherwise becoming law.